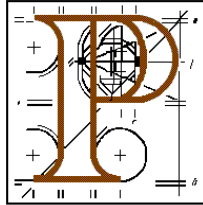


An Bord Pleanála



Inspector's Report

Development:	Quarry, Cartron, Newport, Co. Mayo
Applicant:	Michael Geraghty
Planning Authority:	Mayo County Council
Application Type:	Application for Substitute Consent
Observers:	J. P. & M. Sheriden; T., M. & S. Caine; M. & C. O'Carroll; M. Golden; J. Daly; J. & G. Cusack; M. Sheriden; P. Sammon; S. Joyce; C. & B. Mulchrone; Newport Environmental Protection Group; D. Grean.
Date of Inspection:	26 th November 2014
Inspector:	Deirdre MacGabhann

INTRODUCTION

- 1.1 On 20th May 2014, Michael Geraghty lodged an application for substitute consent with the Board in respect of a rock quarry at Cartron, Newport, County Mayo. The application includes a remedial EIS.
- 1.2 This report provides an assessment of the application for substitute consent and sets out a recommendation for the Board in respect of the development.

2 SITE LOCATION AND DESCRIPTION

- 2.1 The quarry site lies c.5km east of Newport, County Mayo, in the townland of Cartron. Access to the site is via a minor road off the R311, a regional road which runs between Newport and Castlebar. Sightlines at the junction of the minor road and R311 are restricted to the west due to roadside vegetation. The minor road varies in width and to the south west of the quarry it narrows to c.3m.
- 2.2 Within 500m of the quarry are a small number of residential properties and farm buildings (Drawing No. 3), including a two storey property to the south west of the quarry, a farmyard to the south west of the site entrance and a partially constructed residential property to the south east of the site entrance.
- 2.3 Approximately 1.5km east of the site is a Mayo County Council landfill site/recycling centre (Derrinnumera) and c.1km west of the site is Cuilmore National School.
- 2.4 The rectangular shaped quarry lies on the south facing slope of a hillside and extends northwards away from the access road into the rising hillside. Elevation of the quarry ranges from 80mOD at its lower end to approximately 119mOD just to the north of the main quarry void. At the entrance to the site are three disused portacabins/storage containers.
- 2.5 At the time of site inspection the quarry was not in operation, however the site has been largely cleared of overlying blanket bog and sandstone rock has been extracted from the northern part of the application site to form a large rectangular void with a maximum quarry face of c.19 metres. At the time of site inspection the only equipment on site was a disused oil tank and a small amount of waste machinery to the north east of the quarry face.
- 2.6 Surface water drains from the more elevated parts of the site and makes its way, with seeping groundwater from the exposed quarry face, to the quarry floor. Whilst some water ponds on the quarry floor it generally makes its way down overland through the site to the south eastern corner, where it discharges naturally to a ditch/small stream running along the eastern boundary of the site. There is also a ditch along the western boundary of the site and a constructed ditch to the north of the quarry face with water directed to the ditches/streams east and west of the site.

3 APPLICATION FOR SUBSTITUTE CONSENT

3.1 The application for substitute consent includes a completed application form, copies of statutory notices, a remedial EIS, site assessment and associated drawings.

Description of Development

3.2 The development as described in the rEIS relates to a sandstone rock quarry, which produced crushed stone and aggregate, with an area of 3.68ha in an overall landholding of 5.43ha. The quarry ceased operation in June 2006 on foot of a High Court decision that the quarry was unauthorised and is currently 'mothballed'.

3.3 Access to the site is via a 420m access road from the R311. The quarry is situated on an elevated site, with the hill rising from 31mOD to a peak elevation of 136mOD. Top soil and overburden has been stripped from the extraction area and area immediately north of it. Material has been used to form earth berms which screen the development. Overburden has been removed by excavator and processed. Underlying rock has been removed by blasting (bench blasting) and was subsequently crushed and screened. Resultant materials were stockpiled on site for export to customers. No washing of aggregates took place on site.

3.4 Approximately 240,000 tonnes of rock have been extracted from the site to date, with normal operation of the quarry requiring three 20 tonne trucks hauling a total of 20-22 truckloads per day (400 to 450 tonnes per day). Excavation has taken place above the water table.

3.5 At the entrance to the site are two portacabins (west) and a storage container (east), previously used for offices, canteen, toilet/wash facilities and storage. The toilet was connected to a septic tank. Water used for the toilet was harvested on site from a gravity fed water tank located midway along the western section of the site. Water for environmental management (spraying of dust) was sourced from a channel in the eastern section of the southern boundary of the site.

3.6 The perimeter of the site is secured by post and wire fencing and high ditches. Within the site the working area is secured by a post and wire fencing along the top edge of the working face and warning signs have been erected around the excavation area and site boundaries. No permanent lighting is in place at the quarry. The site is not connected to any utilities or services. The site is shielded by the quarry walls and existing berms along the east and west boundaries and vegetation along the southern boundary.

3.7 Surface water is discharged off-site at the south-east and south-west corner of the site via drainage ditches which link into small streams to the south and southwest of the site. Only fuel oils and diesel were stored on site, with diesel in

an integrally bunded tank to the north of the site offices and lubricating oils stored in a steel storage container, immediately east of the site entrance. Fuel was transferred in a mobile double skinned bowser from the storage tank to the working machinery.

- 3.8 There are three houses within c.360m of the quarry entrance, with the closest 170m south/southwest of the site entrance. When in operation, working hours were from 7am to 8pm Monday to Friday and 7am to 4pm on Saturdays. Between 7am and 8am on site activities comprised loading of stockpiled materials onto HGVs. The quarry employed between 2 and 5 persons during busy periods.
- 3.9 All plant and equipment used to work the site (rock breaker, 2-3 tracked excavators, one mobile crusher, a power screen and a front loading shovel) was mobile and all has been removed off site since production ceased. During the operation of the quarry an Environmental Management System was in place (Appendix 2-1, rEIS).
- 3.10 On completion, the site will be restored to a natural habitat (Drawing No. 5) with the removal of all stockpiles, plant and equipment; re-grading of processing area; retention of boundary fencing/vegetation; and restoring of habitat for flora and fauna of conservation value, particularly cliff habitat for bird species.

PLANNING HISTORY

- 3.11 The site has an extensive planning history, which I summarise below:
- March 2003 – Declaration sought from the planning authority under section 5 of the Planning and Development Act 2000, as amended, that the quarry was exempted development on the basis that it was in existence prior to the appointed day (1st October 1964). The planning authority's declaration (April 2003) stated that the development was not exempted development due to the nature, scale and extent of quarrying, particularly since August 2001, which was such that a material change of use has occurred (**PA ref. 03/602**).
 - June 2003 – Owner operator sought a declaration from the planning authority under section 5 of the Planning and Development Act 2000, as amended that the quarry was exempted development for the reasons stated above. The planning authority's declaration (July 2003) stated that the development was not exempt development for the same reasons stated above (**PA Ref. 03/1297**).
 - July 2003 - Owner/operator applied to the Board for a review of the planning authority's declaration (PA Ref. 03/1297). Having regard to sections 2, 3 and 24 of the Local Government (Planning and

Development) Act 1963 and the submissions made by the parties the Board concluded (November 2003) that:

- The use of part of the land for quarrying had commenced prior to the appointed day (1st October 1964) and was not abandoned since that date,
 - Since the appointed day there had not been a significant intensification of quarrying use of the land, and
 - The use of land as an extension to the existing quarry does not constitute a material change of use of the land within the scope of section 3 of the 1963 Act,
 - The quarry at Cartron was, therefore, exempted development (**16.RL.2081**).
- December 2004 – The owner/operator of the quarry registered same (PA ref. **QY1**) with Mayo County Council under Section 261 of the Planning and Development Act 2000 (as amended).
 - August 2005 – Planning authority advised the owner/operator that they proposed to require an application for planning permission to be made with an EIS in respect of the quarry at Cartron.
 - May 2006 – Planning authority advised the owner/operator that they would be imposing conditions on the current extent of the quarry and that any extension into an undeveloped area would require planning permission.
 - June 2006 – Following enforcement action taken by the planning authority, the High Court found the quarry to be unauthorised (reference no. **2005 No. 67 MCA**). The High Court decision was appealed by the owner/operator to the Supreme Court (no hearing to date). The proceedings were taken on the basis that following the board's determination under 16.RL.2081, the rate of extraction had accelerated dramatically, the nature of the excavation had substantially altered from that described by the applicant, the depth of excavation had increased substantially and the residential amenity of dwellings in the vicinity had been severely affected as a result of that intensification.
 - December 2006 – Planning authority advised the owner/operator that as the quarry was deemed unauthorised the planning authority was not in a position to consider any further the application for registration.
 - June 2008 – Owner/operator sought a formal declaration from the planning authority under section 5 of the Planning and Development Act 2000 (as amended) to establish if there was a requirement for planning permission at the (then) existing quarry at Cartron (**PA ref. 08/1104**). Planning authority advised the owner/operator that they were precluded from considering the application for a declaration, due to the decision of the High Court and appeal with the Supreme Court.

- April 2009 – Owner/operator applied for planning permission for the extraction and processing of rock on a site of 3.94ha at Cartron (**PA ref. 09/318**). Application was deemed incomplete by the planning authority and invalidated.
- May 2009 – The owner/operator sought an exemption from the Board to prepare an EIS under section 172(3)(a) of the Planning and Development Act 2000, as amended. In December 2010 the Board decided to refuse the request for the exemption on the grounds that having regard to the nature and location of the quarry development, depth of excavation and likely effects on the environment, the Board was not satisfied that exceptional circumstances existed which warranted an exemption from the requirement to prepare and EIS (**16.EA.2003**).
- August 2012 – Having carried out a review of quarries in their operational area, the planning authority directed the quarry owner under Section 261A(3)(a) to apply to the Board for substitute consent, with a remedial EIS and remedial NIS. In their notice, the planning authority determined that development was carried out that would have required both an EIA and an AA and that same was not carried out. The notice also states that the planning authority decided that the quarry either commenced operation before 1 October 1964 or permission was granted in respect of the quarry under the Planning Acts. Under ‘Reasons’ the notice states that the requirements in relation to registration were not fulfilled (**PA Ref. QY1/CQ1**).
- March 2013 – Owner/operator sought a review of the planning authority’s determination under Section 261A(3)(a). In November the Board considered that development was carried out which would have required environmental impact assessment, but not appropriate assessment (**16.QV.0224**). On foot of their determination, the Board directed the owner/operator to apply to the Board for substitute consent, accompanied by a remedial EIS. The Board did not review the decision of the planning authority under the same notice as the applicant did not request this.

4 PLANNING POLICY CONTEXT

4.1 The current development plan for the area is the Mayo County Development Plan 2004-2020. The Development Plan refers the traditionally strong extractive industry in the County, an important sector in terms of employment and as a source of raw materials. Policies of the plan support the continued development of the extractive industry sector and aim to ensure that development is carried out in a manner which has full regard to the principles of sustainability and minimises effects on the environment (including the Natura 2000 network, amenities,

infrastructure and the community, page 27, policies EI-01). It is also an objective of the development plan to ensure compliance with the Quarry and Ancillary Activities Planning Guidelines for Planning Authorities DoEHLG, April 2004 (policy EI-02).

- 4.2 Policies of the plan afford protection to water resources; views and prospects identified in the Plan; natural heritage, including Natura 2000 sites; and archaeological and architectural heritage. It is also an objective of the Plan, through the *Landscape Appraisal of County Mayo* to recognise and facilitate appropriate development that has regard to the character and sensitivity of the landscape and to ensure that development will not have a disproportionate effect on the character of a landscape in terms of its location, design and visual prominence. The quarry site falls within Landscape Protection Area 3 – Uplands, Moors, Heath or Bog.
- 4.3 Volume 2 of the County Development Plan sets out planning standards and guidance in respect of proposed development. For extractive industries the Plan recognises that the location of such industries is dictated by the availability of the resource and states that each application will therefore be treated on its own merits. In general extractive developments will only be permitted where they will not have an adverse impact on adjoining properties and the environment.

5 SUBMISSIONS

Prescribed Bodies

- 5.1 The application for substitute consent was circulated by the Board to prescribed bodies. The following submissions were made:
- An Taisce – Development coming under the EIA should only be permitted and subject to retrospective assessment in exceptional circumstances. No consideration should be given to any remedial EIS for a quarry which exceeds EIA thresholds and which does not have a valid planning basis. Previous registration of a site under section 261 must be deemed irrelevant since this did not establish then legal basis of a site (An Taisce v An Bord Pleanála, Mr Justice Charleton).
 - HSE – No information on private wells in vicinity. Limited information on noise arising from quarry. Monitoring of background noise at nearby dwellings would provide a better baseline than use of nearby study. No information on consultation locally. Dust monitoring carried out at a time of year when dust deposition would be lower than at other times. Monitoring locations do not represent a ‘worst case scenario’. Unaware of complaints in relation to operation of quarry.

- DAHG – Pair of Peregrine Falcons and Ravens nesting in the quarry. Provide advice in respect of future operation of the quarry.

Third Parties

5.2 The following observations have been made on the application:

- J.P. & M. Sheriden – Quarrying commenced on site in 1993 and by the applicant in 2003. Inadequate notice from blasting. Site not secure. Nuisance from dust, noise and water pollution, use of access road during the operation of the quarry. Little public relations. Unauthorised works to private lane accessing the site. No reference to quarry in applications for planning permission in proximity to quarry. Impact on residential amenity. Visibility of quarry in local area. Noise from quarry audible at Cuilmore National School. No opportunity to make observations on reference case RL16.2081.
- T. M. & S. Caine – Proximity of dwelling to quarry. Impact on amenity (noise, fumes, dust, flooding and value) and privacy. Impact on use of access road. Works to access road without consent. No stock proof fence between quarry and observer's land (extreme risk to animals). Water pollution. Lack of notice regarding blasts. Eyesore. No waste management in place and waste material has been dumped there.
- M. & C. O'Carroll – No quarry in area when applied for permission to build house (2008) and when occupied (2010). Proximity of property to quarry (700m). Quarry will impact on dwelling (noise), increased traffic on roads and risk of accidents (R311/ entrance to school). Quarry is not entitled to pre-1964 exemptions.
- M. Golden - No quarry activity prior to 1986.
- J. Daly – Proximity of dwelling to quarry (250m). Impact on amenity (dust, noise, traffic, structural damage to house, property devaluation), adverse impacts on local environment (habitats, water pollution). Quarry wrongly designated as 'exempt development'. No quarry on site prior to 1993. Lack of regard for local community in past operation of the quarry (insufficient notice re blasting, contaminated water, blocking private access roads, rock breaker in early hours and late evening).
- J. & G. Cusack – Blasting, constant noise from rock breaker and unsightly view/unrepairable damage to landscape.
- M. Sheriden – Land at Cartron was in agricultural use until 2003.
- P. Sammon – No quarry at Cartron in the 60s, 70s or 80s.
- S. Joyce – Was the first person to take material from the lands in 1993. Lane accessing the quarry has been severely altered by operator, without permission of observer (landowner in part).

- C. & B. Mulchrone – No quarry on lands when purchased in 1998 and when granted permission for house in January 1999. Impact on quality of lives (traffic, overlooking, property devaluation, noise, dust and pollutants, limited notification regarding blasting, stress and anxiety). Quarry entrance adjoins property to west and north. Long distance views of quarry and visual impact of same. Historically limited use of laneway. Substantial increase in width of lane and alterations to vertical and horizontal alignment, without consent of landowners. Inadequacy of lane to accommodate volume of quarry traffic. Operating hours in excess of those stated in rEIS. Quarry was not in operation up to 15th April 1974. Small extraction area in June 1995. Numerous quarries within 50km of the site.
- Newport Environmental Protection Group:
 - Registration – Application flawed. Quarry commenced operation after 1974.
 - Application for substitute consent – Contains inaccuracies (unsigned digital copy, name of local authority omitted, inaccurate information regarding the applicant’s name, inaccurate site and planning history, no information on GWS, inadequate information on septic tank and percolation area, unacceptable means of surface water disposal, public notice not visible from the public road).
 - Inadequacies in the rEIS (quarry registration number, planning history, applicant, ownership/legal status of access road, interference with access road without consent, current disrepair of access road, insecure access to site, no scoping of rEIS, inaccurate historic information regarding material removed from the quarry, lack of technical information).
 - Inadequate description of development in rEIS (impact of works to access road on adjoining land, visibility of site and visual impact of development, unbunded oil tanks, two working rock breakers omitted from rEIS, surrounding development, absence of weighbridge, operating hours differ from those registered).
 - Description of development - Little local employment. Inadequate information on volume of material extracted/moved. No hard stand area on site for refuelling. Inadequate security. No health and safety plan. Dust and noise generation a serious issue when quarry operation (site not comparable to Derrinnumera landfill site). Environmental management controls never in place. Lack of confidence in restoration proposals.
 - Conflict with policies of the county development plan (extractive industries, tourism, rights of way).

- Humans – Application fails to address health and safety issues. No stakeholder engagement. Inadequate emphasis on local school. Large number of quarries in 50km of site. Inadequate site security (high ditches constructed by applicant, no stock proof fencing, no safety signage on entrance gate, or on R311 or of blasting).
- Ecology – EclA carried out should be an rEclA. Ecological assessment limited to site itself. No liaison with local residents to gather information. Inaccurate assessment of impacts of road on hedgerows and stream. Insufficient information regarding the habitat damage to the site when it was in operation. No bat survey. Drumgony Lough not referred to.
- Soils and Geology – information is inconsistent with site assessment. Soils moved on site without environmental management plan or notification to neighbours.
- Water – Insufficient information given in relation to impact of surface water on Rossow River and surrounding ecology. No information on depth to aquifer.
- Air – Poor means of dust control in place during operation of quarry. rEIS fails to provide accurate information on dust emissions while the site was operational and impact on local community. Reference to operational dust/strategy or monitoring regime is inaccurate.
- Noise and Vibration – rEIS fails to provide accurate information on noise emissions/impacts on local community. Information on at least two additional blasts omitted from rEIS, 5 of the 11 records of blasting exceed air over pressure limits. Impact of blasting on local residents outside 500m zone. Inadequate warning re blasts.
- Landscape – Information relates to present condition of site. Incorrect provision of information on visibility of operational site.
- Cultural heritage – The site has never been investigated by an archaeologist. Soils moved without reference to archaeologist.
- Material Assets – No professional information on house prices and their history in the area. Environmental controls referred to were never implemented. rEIS has given scant regard to Cuilmore National School. Applicant failed to seek permission from landowners for works to access road. Road is now unstable and is a severe risk for heavy vehicular use. No information on other road users. No impact assessment on R311. Inadequate sightline at junction of private road and R311 towards Newport. Site lies in an important local and tourist area.
- Interactions – No matrix of impacts.

- Lally site assessment – No wastewater treatment system on site during operation. Site assessment contains inaccuracies and inconsistencies with rEIS.
- D. Grean – Impact of dust (grazing land). Difficulties in moving stock.

Planning Authority

5.3 Correspondence on file from the planning authority to the Board (received 15th July 2014) refers to the High Court case taken by the planning authority (Ref. no. 2005 No. 67 MCA, 29th June 2006) which found that the quarry was an unauthorised development. States that the planning authority was in error in requiring the applicant to apply to the Board for substitute consent. The case has been appealed to the Supreme Court (Ref. 003/2007) and the planning authority request that the Board to defer consideration of the application for substitute consent until the High Court has given its ruling. (Refer to McGrath Limestone Works Limited v the Board regarding the interpretation of Section 261A and 261A(3)(a) in particular, that before a Planning Authority can direct a party to apply for substitute consent the quarry must have commenced operation before 1st October 1964).

6 PLANNING AUTHORITY'S REPORT

6.1 The planning authority's Section 177I report of the 18th July 2014 is divided into three parts:

Legal position of the Quarry

6.2 This repeats the planning authority's position set out in their letter to the Board of the 15th July 2014, that the Board should suspend consideration of the application until the Supreme Court has given a ruling on the High Court decision. (The submission includes material forming part of the case, including the final decision and main affidavits).

6.3 State that the current position is that quarry is unauthorised and that the notice under section 261A(3)(a) is incorrect. The correct notice is that under section 261A(5).

Matters arising under Section 177I(2)

6.4 In their submission, the planning authority summarise the planning history of the site, refer to relevant development plan policies in respect of the development and make the following points:

- The development has had an impact on a wider area than the 500m indicated in the rEIS, certainly in respect of traffic and visual impacts (refer to Table and map showing planning applications within 1km of the site).
- Current effects of the development - Consider that there are no sedimentation controls in place for surface water; the condition of the access road causes significant environmental effects by the creation of dust and siltation of watercourses; the quarry face has a significant effect on the landscape and that proposals for restoration are no longer an appropriate solution (EPA document *Environmental Management in the Extractive Industry (Non-Scheduled Minerals) 2006*).
- Anticipated significant effects of the development - State that these (noise/vibration; dust; traffic impacts) will occur if substitute consent is granted and the quarry recommences and if it is extended.
- Previous significant effects on the environment - State that based on their own inspections of the site, registration form submitted and affidavits filed in the High Court case, these have arisen from noise and vibration, traffic, hours of operation, water quality, landscape and the cumulative impact of same on residential property in the vicinity of the site. Note that with the exception of blast monitoring, there is a lack of monitoring data prior to the High Court proceedings and the EMS was only prepared in September 2005, after initiation of the High Court proceedings.
- Consider that substitute consent should not be granted having regard to the High Court decision; the likelihood of significant environmental effects arising with the continuation of all or part of quarry activity; the serious impact of the continued operation of the quarry on amenities and value of property in the vicinity.
- Conditions to be attached to any permission are set out in Appendix 6 of the submission.

Remedial EIS

- Whilst the planning authority is satisfied that the rEIS complies for the most part with guidelines on the content and preparation of EISs, it outlines a number of areas in which the rEIS is inadequate, namely ecology, water and noise and vibration. The report states that the rEIS does not meet the requirements of the Planning and Development (Amendment) Act 2010 (section 177F) and is inconsistent with information contained within the section 261 documentation.

7 FIRST PARTY REPSONSE

7.1 The first party responds to the issues raised by the planning authority and observers, as follows:

- Scope of rEIS - The application for substitute consent relates to the development which has taken place. Any future application, and the concerns of residents re same, would have to be treated on its merits. A refusal of substitute consent would leave the development without official planning status and could potentially require reinstatement of the site, with local disruption disproportionate to the current impacts of the quarry.
- Public consultation – Considered to be premature, as application is for development which has taken place.
- Exempted development – The development was recognised as exempted development under 16 RL2081. No outstanding issues/judicial review exist in relation to decision. No public representation is provided for in such determinations. No conditions were attached to the operation of the quarry and operators were not under any obligation to conduct any monitoring. All operational controls etc. were implemented at the initiative of the applicant and were proportionate to the scale of the development.
- During 2004/5 there was a temporary increase in activity at the quarry, dictated by one contract only, relating to upgrade works on the R311 conducted by Mayo County Council. In recognitions of short term increase in activity and publication of quarry guidelines, environmental monitoring and mitigation measures were implemented in 2005. Upgrade works on access road also conducted, but had been maintained by various operators of the quarry throughout its lifetime (60years). Due to the finite and short term nature of the increase in activity, the applicant considered at all times that he was operating within their remit as exempted development and in compliance with legislation and planning requirements.
- Past performance of the quarry must be reviewed in the context of the regulatory framework in which the quarry operated (16.RL.2081) and the published guidance documentation. Quarry was small scale with low levels of activity over 60 years.
- Planning authority's request that the Board suspend decision on this application pending outcome of the Supreme court is not valid. The legislation quoted by the planning authority provides for substitute consent, irrespective of the legal status of the existing quarry development.
- Reasons outlined by the planning authority for refusing permission are unfounded (based on a misinterpretation of the legislation and that substitute consent will allow a resumption of activity on site). The

conditions proposed by the planning authority are not valid as they relate to an operational facility.

- The applicant also makes detailed comments on matters raised in submissions. I address these in my assessment below.

8 ISSUES AND ASSESSMENT

8.1 Having regard to my inspection of the application site, the submissions on file and the policies of the County Development Plan, the issues arising in respect of the application for substitute consent comprise the:

- The principle of the application for substitute consent.
- The principle of the development.
- The adequacy of the application for substitute consent and the adequacy of the remedial EIS, and
- The environmental effects arising from the development.

8.2A number of other matters are raised by observers, which I comment on as follows:

- Application form – The application for substitute consent has been validated by the Board. It identifies the relevant planning authority and applicant (Michael Geraghty) and complies with the requirements of the Planning and Development Act 2000 (as amended) and Planning and Development Regulations 2002.
- Alterations to private road without consent of multiple owners - I deal with the environmental consequences of the alterations which have taken place to the access road below. However, the matter of consent, and impacts on private rights of way, are legal ones which are outside the scope of the planning system.
- Absence of opportunity for external observations in reference case 16.RL.2081 - I note this concern of the parties, but again it is a matter which is outside the scope of this application.
- Concerns regarding the scale and impact of future quarry activities - This application deals only with the past operation of the quarry. Any future use of the site for quarrying would be subject to a separate application and would be dealt with on its own merits.
- Location of site notice – It is clear from the substantial number of submission which are on file from third parties that the purpose of the site notice has been served.
- Reference to quarry registration number in rEIS – The information on file adequately includes reference to the registration of the quarry under

reference QY1. The history and current status of the quarry under the registration process is set out above (Planning History).

- Inconsistencies between application for substitute consent and registration of the quarry – I deal with any matters of substance under the environmental effects of the development below.

Principle of Substitute Consent Application

- 8.3 An application for substitute consent may only be brought forward under section 177E of the Planning and Development Act 2000 (as amended) pursuant to a notice under Section 261A of the Act (or other relevant sections of the Act).
- 8.4 Section 261A(3) of the Planning and Development Act requires that in order to direct a quarry owner to apply for substitute consent, the local authority must also find that the quarry commenced operation prior to 1st of October 1964 (or that permission was granted in respect of the quarry) and have fulfilled the requirements in relation to registration.
- 8.5 In this instance, the planning authority issued a notice under Section 261A(3)(c) which stated that the planning authority decided that quarry commenced operation prior to 1st October 1964. The same notice stated that the requirements into registration under section 261 were not fulfilled.
- 8.6 The owner/operator sought a review of the planning authority's determination under Section 261A(3)(c), but not their decision. The Board reviewed the determination of the authority and directed the owner/operator to apply for substitute consent. In the absence of a request to review the planning authority's decision, the Board is precluded, statute, from examining this aspect of the Notice.
- 8.7 The owner of the quarry has submitted an application for substitute consent on foot of the notice to submit same. Consequently, a valid application for substitute consent has been made by the applicant, in that it complies with the notice issued by the Board.
- 8.8 Whilst I draw the Board's attention to the planning authority's request that the Board defer consideration of the application for substitute consent until the Supreme Court has given a ruling on the High Court decision, I would consider it appropriate in the interest of natural justice and fairness that Board determine the application before it on the basis that the application has been made consistent with the public notices issued. Any consequences arising from an erroneously issued Notice issued under Section 261A would be a matter for the Courts to determine.

Principle of Development

- 8.9 The Department's Guidelines for Planning Authorities on Quarries and Ancillary Activities (DoEHLG, 2004) acknowledge that extractive industries make an important contribution to economic development in Ireland but that the operation of the same can give rise to land use and environmental issues which require mitigation and control through the planning system.
- 8.10 Similarly the County Development Plan refers the traditionally strong extractive industry in the County and supports the continued development of the extractive industry sector subject to development having sustainability and minimises effects on the environment.
- 8.11 Within this context, I consider that the principle of development is acceptable on the site, subject to a satisfactory assessment of environmental effects.

Adequacy of Remedial Environmental Impact Statement

- 8.12 The application for substitute consent is accompanied by a remedial EIS. The Statement is consistent with the requirements of section 177F of the Planning and Development Act 2000 i.e. it contains a statement of the significant environmental effects on the environment that have occur, are occurring or may occur because of the development and it sets out details of remedial measures to be undertaken.
- 8.13 The rEIS is also generally consistent with the requirements of article 94 of the Planning and Development Regulations, 2001-2013 (contents of an EIS), i.e. it describes the proposed development, sets out mitigation measures to avoid or remedy impacts and includes data to identify and assess the main effects of the development on the environment. The remedial EIS also includes a non-technical summary. The rEIS does not deal with the matter of alternatives, however, this is acceptable given the nature of the application. Further, there is little robust monitoring data available for the past operation of the quarry and relatively little attempt to accurately model the likely impacts arising. This is a limitation of the rEIS. However, having regard to the information contained within the rEIS, the other information available on file (including the submissions of third parties) and my inspection of the and the information available, I am satisfied that there is adequate information to enable the Board to make a decision on the application for substitute consent.
- 8.14 Parties to the appeal refer to the issue of scoping and community engagement. Both of these exercises form important elements of the process of environmental impact assessment but, except for the process of consultation with prescribed bodies, neither is mandatory.

Environmental Impact Assessment

8.15 As the competent authority for decision making, the Board is required to carry out an environmental impact assessment of the application for substitute consent¹ i.e. to identify, describe and assess the direct and indirect effects of a proposed development on the environment, in accordance with Articles 4 to 11 of the EIA Directive, on the following:

- Human beings, flora and fauna,
- Soil, water, air, climate and the landscape,
- Material assets and cultural heritage, and
- The interaction of the foregoing.

8.16 The following assessment of environmental effects has regard to the rEIS submitted, the additional information on file and my inspection of the site.

Human Beings

8.17 The quarry is located in a rural area. Within 500m of the quarry are a small number of dwellings, lying south, southwest and south east of the site and the access road (Site Survey Map Drawing No. 3). A further residential property is under construction immediately south east of the quarry entrance. Within approximately 1km of the site there are a larger number of properties, in particular to the west and south of the site, and approximately 1km to the west is Cuilmore National School. Approximately 1.4km to the east of the site is Mayo County Council's Derrinnumera landfill site/recycling centre.

8.18 As discussed below, when operational the quarry has given rise to noise, dust, visual and traffic impacts, as well as disturbance from blasting. There is little robust monitoring information on file and it would appear from the information which is available and from third party submissions that the quarry has given rise to significant in-combination local environmental effects. Whilst these do not appear to have impact on land uses in the wider area (as development has continued to take place), it does appear to have had impact on the use of land locally and the traditional use and nature of the private access road serving agricultural land in the vicinity of the site.

8.19 The quarry has employed a small number of people and has supplied the building industry in the area. It would therefore have had an overall small positive local impact on economic activity.

8.20 I note that the site is generally well fenced along its boundaries (see photographs), is gated and that warning signs are erected at the site entrance (but not along the R311). Whilst the fencing, if maintained, would appear to be stock proof, the entrance gate does not prevent ready access and does pose an on-going potential risk to health and safety. If the Board are minded to grant

¹ Section 172 of the Planning and Development Act, 2000, as amended.

permission for the development, this matter could be dealt with by condition in respect of the restoration of the quarry.

8.21 Cumulative impacts on people living and working in the area are unlikely due to the absence of other substantial like developments in the immediate vicinity of the site.

Fauna and Flora

8.22 The operation of the quarry would have resulted in the direct loss of existing on-site habitats and the direct and indirect displacement of species (for example, as a result of loss of habitat, noise, dust, disturbance and water pollution), from the site and from adjoining lands.

8.23 The site is not protected by any national, regional or local nature conservation designations and the rEIS indicates that habitats and species on site are likely to have reflected those prevailing in the area, in particular, low value improved grassland (c.2.5ha) in the low to mid-section of the site, grading into local value wet heath habitat (c.1ha) in the upper section of the site. Species found on the adjoining habitats include, Irish Mountain Hare (protected species), birds and possibly bat species (all species protected).

8.24 The local value ecological status of the site seems reasonable having regard to the information on file, aerial photography, historic maps and inspection of the site. Further, having regard to the availability of significant alternative like habitat in the immediate vicinity of the site and the surrounding area, any loss of habitat is unlikely to have been significant, of itself, or to have significantly impacted on any affected species.

8.25 Currently, the rEIS states that the ecological value of the site is likely to have potentially surpassed its pre-existing value, with the presence of protected species on site (Peregrine Falcon) and the creation of micro-habitats, woodland and scrub, utilised by, for example, the Common Frog, Irish Mountain Hare and local birds. This conclusion seems reasonable, having regard to the previous condition of the site and absence of protected species.

8.26 Water arising from the quarry appears to have discharged into small streams running along the eastern and western boundaries for the site and from here into field drains/small streams to the south of the site (Figure 6-3, rEIS). From the information available on file, it would appear that the quarry, at least at times during its operation, discharged water containing high levels of sediment into the local watercourse (see section below on Water), with impacts on aquatic species. However, as sedimentation tends to decline substantially with distance from source, effects are likely to have been localised. Currently I note that water quality downstream of the site is good and there appears to be no adverse impacts on same arising from the past operation of the quarry.

8.27 Cumulative impacts on flora and fauna are unlikely due to the absence of other substantial like developments in the immediate vicinity of the site.

8.28 I note that proposals for restoration of the site are to allow it to remain as it is, colonised by local scrub and woodland vegetation. Whilst this approach is in principle acceptable, detailed restoration plans are required to meet other objectives (e.g. visual impacts, site security) and to enhance the nature conservation value of the site (protective measures for nesting birds). If the Board are minded to grant permission for the development, this matter could be addressed by condition.

Protected Sites

8.29 The quarry is physically removed from any protected sites. The nearest Natura 2000 site lies c.1.5km to the north of the site, Newport River SAC, site code 002144. Clew Bay Complex SAC and NHA (site code 001482) lies c.4.5km to the west of the quarry. Indirect effects by way of noise, disturbance, dust etc. will not arise due to the distance of the quarry from these sites. The site is not hydrologically connected to Newport River SAC, but ultimately water arising from the site discharges into Clew Bay SAC/NHA.

8.30 The quarry is operated above water table and no adverse impacts on the local hydrological regime are likely with consequences for the downstream SAC/NHA. Similarly, discharge of sediment laden water is highly unlikely to have impacted on the SAC/NHA given the distance of the quarry from the protected site and the tendency for sedimentation levels to decline substantially with distance from source.

Soil and Geology

8.31 The main impacts of the development on soil and geology have been the removal of topsoil and overburden overlying the bedrock, the loss of sandstone bedrock itself and the increased risk of pollution of groundwater arising from this (dealt with under 'Water').

8.32 I note that the overlying soils have been stored along site boundaries for future restoration and that the quarry will therefore have a short term impact on these. Loss of bedrock is a permanent adverse impact, however having regard to the substantial scale of this resource in the area, any impact would be minor.

8.33 No other quarries operate in the immediate vicinity of the site and assuming that the nearby Derrinnumera landfill site will be restored on completion, cumulative impacts on geology or soils are unlikely.

Water

8.34 The quarry lies within the Clifden Castlebar Groundwater Body and just north of the Beltra Lough South Groundwater Body. Water quality status of both is 'good' with WFD ratings of 'probably not at risk'. The underlying aquifer is Local Important Bedrock Aquifer, Moderately Productive in Local Zones, which is classified as having High and Extreme vulnerability, with exposed rock at the

surface. The rEIS states that groundwater flows in shallow fissures and fractures c.1-2m below the surface, with short flow paths to nearby streams, and generally in a south-westerly direction.

- 8.35 With regard to surface water, the quarry lies within the Western River Basin District; and in the catchment of the Carrownisky-Owenwee-Carrowbeg-Coastal (EPA Maps, Water Regions). Surface water falling within the site (and from the quarry face) makes its way overland to the lower part of the site to streams/ditches to both running along the eastern and western boundaries of the site. These water bodies flow under the access road and discharge into two field ditches/small streams (Figure 6-3, rEIS) which discharge into Drumgoney Lough (see attachments). Drumgoney Lough discharges ultimately into Clew Bay. There is limited water quality data for rivers between the site and Clew Bay, however, the WFD risk score for Clew Bay is 'strongly expected to achieve good status' (EPA Maps).
- 8.36 There is no information on file regarding the local water table and its height relative to that of the quarry; wells in the vicinity of the site or details regarding the local GWS. However, applicant states that the quarry was worked above water table and my inspection of the site during a wet winter would support this statement. Consequently, the operation of the quarry is unlikely to have impacted on the local groundwater regime or wells in the vicinity.
- 8.37 During operation, surface water was used on site for dust suppression and for the single toilet on site. Water for operations was sourced from a side channel of the drain discharging from the south east corner of the site (with the channel also acting as a silt settlement facility). Water for the toilet was sourced from a currently disconnected plastic water tank located in the mid-west section of the site which collected surface water from the quarry surface. The rEIS states that a holding tank was used at the site for waste water from the site office/toilet facility, but no details are provided in respect of this (e.g. capacity, disposal of waste). The rEIS also states that in c.2002 a shallow excavated depression, in the eastern portion of the southern section of the site, was filled with 3" stones to act as a percolation area for surface water prior to discharge.
- 8.38 The main risks to water arising from the quarry are contamination of ground and surface water from accidental spills on site; from possible discharges from the septic tank and from increased sedimentation.
- 8.39 The remaining layers above groundwater within the quarry will provide some filtration and attenuation of sediments and there is no evidence to indicate that the groundwater body in which the site lies has been adversely affected by the development (e.g. by sedimentation or hydrocarbons).
- 8.40 With regard to surface water, arrangements for the use, management and discharge of surface water seem to have been quite *ad hoc* and below industry standards and licencing requirements (in particular to facilitate the settlement of solids and removal of any hydrocarbons). Whilst I accept that the operation of

the quarry pre-ceded the adoption of these, the arrangements in place were nonetheless inadequate and information on file would indicate that the quarry caused localised water pollution (with silt laden water discharged from the site) and flooding of the access road and neighbouring property. In all, I consider the arrangements for the management and disposal of surface water to have been seriously sub-standard.

- 8.41 I note that water quality information on the currently inactive site is generally good, except for faecal coliforms (considered to be from animal faecal material) in the sample taken from just inside the south east boundary (Table 6-6, rEIS; Figure 6-4) and I would expect that no future impacts on water quality would arise as a result of the past operation of the quarry.
- 8.42 Cumulative impacts to ground and surface water bodies in the vicinity are unlikely due to the absence of similar activities in the area.

Air and Climatic Factors

- 8.43 The main impacts arising from quarrying on air and climate would have been emissions from plant and equipment and dust arising from the working of the quarry, processing and transport of materials.
- 8.44 The quarry site is a relatively small development and vehicle and plant associated with it, even at peak, whilst giving rise to greater emissions, are unlikely to have caused any significant impact on climate. Whilst the development will have added to the cumulative emissions from traffic, plant and machinery operating in the area, again such cumulative impacts are unlikely to be significant in the rural area in which the quarry is located.
- 8.45 The rEIS provides information on dust monitoring that was carried out on site on six occasions between October 2005 and April 2006. The dust monitoring stations are located to the south west of the quarry, north of the quarry and near the site offices. Dust deposition levels are well within the industry standard of 350mg/m²/day (Table 8-5, rEIS), however, dust monitoring has been carried out over a limited time frame, during the wettest months of the year and was not carried out at nearby sensitive receptors. I note that third parties consistently draw the Board's attention to the dust emanating from the access road to the site and the impact of this on local property (in particular the property to the south west of the site, east of the access road) and I note that the mitigation measures do not include a wheelwash or spraying of the unsurfaced access road in dry weather. Further, as the site has relied on surface water for dust spraying, it is unclear whether there was sufficient water to spray in dry weather conditions when dust levels would potentially be greater. In the absence of robust monitoring evidence to the contrary, it would appear therefore that dust emanating from the site, in particular the access road, has had a moderate to significant local impact.

- 8.46 Currently the quarry site is unworked, no materials are stored on site and the site is regenerating naturally. Dust emissions are currently likely to be very low and I observed no evidence of any dust nuisance at the time of site inspection.
- 8.47 Cumulative dust impacts at the time of operation are unlikely given the absence of quarries in the immediate area of the site or other large scale developments.

Noise and Vibration

- 8.48 The rEIS acknowledges that the receiving acoustic environment for the quarry is a quiet rural location close to a main road. It refers to a survey of background noise levels carried out by the planning authority in respect of the Derrinnumera landfill site, to the east of the quarry. Whilst this will give some historic information on background noise levels in the area, it does not establish site specific information, for example, background noise levels at nearby residential properties or the impact of the R311 on same.
- 8.49 A single noise monitoring survey of the quarry was carried out on 4th November 2005 (Table 9-2, rEIS). It indicated an equivalent continuous noise level of less than 55dB(A) as measured inside the quarry, to the rear of the site offices (Drawing No. 3 – Site Map). Whilst the applicant has clarified what equipment was in use at the time of survey (two excavators, mobile crusher, three way split power screen and loading shovel), the survey does not indicate how noise levels varied over time or with different equipment e.g. the rock breakers observed by third parties and referred to in the rEIS as equipment used on site. Neither does the survey measure noise at nearest dwellings (e.g. given the ‘open’ presentation of the quarry to properties to the south).
- 8.50 Whilst I accept that the application for substitute consent is retrospective, and that it is not possible now to carry out detailed surveys of the site, however, in the course of this application there have been a series of concerns raised by the planning authority and local residents regarding excessive noise arising from the quarry; extended operating hours; and noise arising from HGVs on the access road and the rEIS has inadequately attempted to estimate the likely impact of these operations on the local community and, in the absence of robust monitoring information to demonstrate the contrary, it would appear that the quarry has given rise to significant local noise impacts.
- 8.51 With regard to noise and vibration arising from blasting, records of blasting between June 2003 and November 2004², are presented in Table 9-6 of the rEIS. These indicate blasts on 11 occasions, over 18 months. Monitoring is carried out on each occasion at a residential property, either the property to the east, south or south west of the quarry (Drawing No. 3). This arrangement is unsatisfactory

² Residents also state that blasting was carried out in September 2005 and April 2006.

as no long term trends can be established at any individual dwelling. Further, whilst the blast monitoring results indicate that peak particle velocity and air over pressure measurements have been generally within industry standards, on five occasions (c.45%) the standard air over pressure limit was marginally exceeded. Whilst I accept that blasting was carried out prior to the publication of the EPA's recommendations standards in respect of extractive industries, the blasting exercise still resulted in excessive noise and vibration in a high percentage of occasions for local residents. I note also that a number of parties draw the board's attention to inadequate notice in respect of blasting. It would appear therefore that blasting carried out at the quarry has significantly impacted on the local population (by way of nuisance, excessive noise and vibration), albeit for the temporary duration of the blasting exercise.

Landscape

- 8.52 The quarry site falls within Landscape Protection Area 3 – Uplands, Moors, Heath or Bog, on the lower slopes of an open hillside. Due to intervening topography and vegetation, the quarry is reasonably well screened and is not generally visible from the public road network surrounding the site or the national way marked trail which runs +2km to the west of the quarry. However, from a small number of vantage points, including in the area of Drumgoney Lough, the quarry void is apparent but even from these locations the quarry blends reasonably well into the open 'vista' in which it occurs, primarily due to the natural recolonization of the.
- 8.53 Whilst I am mindful that the working quarry, with its stripped surfaces, is likely to have been more visible than the existing site, and policies of the County Development Plan seek to ensure that development will not have a disproportionate effect on the character of a landscape in terms of its location, design and visual prominence, I consider that on balance the quarry has not been and is not widely visible and has not and does not disproportionately effect the character of the hillside in which it is located.
- 8.54 I note that the applicant intends to allow the quarry to re-generate naturally. However, I consider that remaining visual impact of the quarry in the local landscape could be further mitigated by an enhanced landscaping scheme. This matter could be dealt with by condition.

Material Assets (including architectural, archaeological and cultural heritage)

- 8.55 The quarry site occupies a relatively small, modest site in the context of surrounding geological resource. The permanent loss of bedrock whilst representing a permanent negative impact, has contributed to the local economy. Since works have ceased, the quarry has been allowed to naturally regenerate with positive impacts on landscape and ecology.

- 8.56 The access road to the site has been raised and upgraded over the operational phase of the quarry and its nature has changed significantly from a farm access lane carrying infrequent traffic to a quarry entrance carrying a large volume of HGVs. There are no details regarding the construction or make up of the road (or arrangements for drainage), although it appears to have been constructed from quarry materials and recently repaired in places.
- 8.57 Whilst the width of the western section of the road is capable of allowing two vehicles to pass each other, the remaining eastern section is quite narrow (c.3m) and is not (although a passing bay is provided in this section). Further, this eastern section of the access road has a narrow verge, which falls sharply into the adjoining roadside ditches/streams (see photographs). Sightlines at the junction of the road onto the R311 are also inadequate to the west due to roadside vegetation.
- 8.58 There is conflicting information on the volume of traffic associated with the development. For example, section 2.54 of the rEIS estimates that the normal operation of the quarry required three 20 tonne trucks hauling a total of 20 truckloads a day, whereas comments by the applicant on observations made (5th August 2014) state that vehicles movements in 2004/5 were far greater than this number. (The quarry registration documentation refers to 3-20 vehicles up to 24 runs each per day).
- 8.59 Whilst the access road to the site has been upgraded, it was clearly seriously deficient in particular along its eastern-most section, in terms of width and make-up, to cater for the large volume and weight of traffic that appears to have been using it to access the site.
- 8.60 The quarry site is removed from any protected structure, and there are no recorded monuments or features of archaeological interest (Table 11-1, rEIS) or cultural interest on or in immediate proximity to the site. Whilst the site has not been subject to an archaeological testing, it would appear that no significant impacts on architectural, archaeological or cultural heritage have arisen or will arise.

Inter-relationship between the Foregoing

- 8.61 The main interactive impact arising are:
- Between water and ecology.
 - Between visual, noise, dust, vibration and traffic impacts.
- 8.62 Interactive impacts between water and ecology are discussed above. I note that in my assessment of individual impacts, I have concluded that significant local environmental effects have arisen as a result of the operation of the quarry in particular with regard to water (off site pollution and flooding); dust, noise, vibration, traffic and hours of operation. Interaction of these impacts will compound individual impacts, collectively detracting further from the amenity of the local area.

Conclusion

8.63 From the information on file and my inspection of the appeal site, I would conclude that the operation of the quarry at Cartron has given rise to significant local environmental effects in particular, significant impacts on residential amenity (noise, dust, visual impacts and nuisance), local water quality and traffic safety (seriously deficient access road).

10. CONCLUSION AND RECOMMENDATION

10.1 Having regard to the nature and scale of quarrying which has taken place on the appeal site, the proximity of the quarry to nearby residential development and the inadequate arrangements in place for the management of environment effects (in particular with regard to noise, dust, and water pollution), and the deficient nature of the access road in terms of width and make-up, I consider that, the development at Cartron gave rise to unacceptable environmental impacts and a danger to public safety by reason of traffic hazard. To permit substitute consent would, therefore, be contrary to the proper planning and sustainable development of the area.

REASONS AND CONSIDERATIONS

Having regard to the:

- i. policies of the Mayo County Development Plan 2014-2020,
- ii. remedial EIS,
- iii. planning history of the site,
- iv. report of the planning authority,
- v. submissions on file,
- vi. nature and scale of the development,
- vii. proximity of the development to nearby residential development,
- viii. inadequate arrangements in place for the management of environmental effects arising (in particular with regard to noise, dust and water pollution),
- ix. deficient nature of the access road in terms of width and make up,

It is considered that the operation of the quarry at this location gave rise to significant environmental effects, which seriously detracted from the residential amenity of property in the area and gave rise to water pollution and a danger to public safety by reason of traffic hazard and obstruction of road users. To permit substitute consent,

would, therefore be contrary to the proper planning and sustainable development of the area.

Deirdre MacGabhann
Planning Inspector

17th December 2014